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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/073,504

02/11/2002

Pat Muller

5984

20606

7590

02/07/2011

KEITH FRANTZ

401 WEST STATE STREET

SUITE 200

ROCKFORD, IL 61101

EXAMINER

CLERKLEY, DANIELLE A

ART UNIT

PAPER NUMBER

3643

MAIL DATE

DELIVERY MODE

02/07/2011

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/073,504

Applicant(s)

MULLER, PAT

Examiner

DANIELLE CLERKLEY

Art Unit

3643

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 July 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5, 7-9, 11-17 and 19-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7-9, 11-17 and 19-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-945)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Objections

1. Claim 7 currently depends from claim 6; however, claim 6 has been cancelled. For purposes of examination, the Examiner has treated claim 7 to depend from claim 1. Appropriate correction is required.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-5, 7-9, 11-17 and 19-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gordon (U.S. Patent No. 4,940,020) in view of Meekins (U.S. Patent No. 4,763,604).
4. For claims 1-5, 7-9, 11-17 and 19-25, Gordon discloses a non-electrical dog training aid (10) adapted for use with a dog collar (12), the training aid comprising: a body (18) including a center having a front side (22) and a back side (24) and having two ends, the ends being provided with elongated, transversely lengthwise extending openings (34) for threading the collar therethrough and along the front side of the body; and three non-electrical posts (20) projecting rearwardly from the back side of said body, one of said posts being located longitudinally between the other two of said posts and offset from a plane extending between said other two posts to establish a triangular orientation between the posts when viewed from behind (as discussed in Col. 2, lines

45-50); said body (18) is rigid, and said body and posts (20) are formed integrally molded plastic (Col. 2, lines 26-32); said posts (20) are of equal length (as shown in Fig. 4); said posts (20) are provided with rounded free ends (Col. 2, lines 40-43); said body (18) is generally planar, with said front side (22) and said back side (24) parallel to one another (Col. 2, lines 34-37); and said plane extends longitudinally through said center of the body and between said ends such that said other two posts (20) are longitudinally aligned with respect to said body (as shown in Fig. 2 and Col. 2, lines 45-50).

5. Gordon fails to specifically disclose the body includes a narrow center having a front side and back side, and first and second opposing free ends extending longitudinally from said center portion, defining upper and lower lobes extending to above and below the center portion. However, Meekins teaches within the same field of endeavor of collar attached articles a body (Fig. 1: 10) including a longitudinally extending narrow center portion and two ends, wherein the ends have two lobes extending to above and below the center; wherein said lobes are rounded when viewed in a line along a transverse axis through the body. It would have been obvious to one having ordinary skill in the art at the time of the invention to have modified the body of Gordon to include a bone-shaped body adapted for use with a dog collar as taught by Meekins for providing an aesthetically pleasing shape for accessorizing the dog collar. Further, limitations related to the choice of ornamentation producing no mechanical effect or advantage to the invention, including a mere change in size or shape of a component, is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237 (CCPA 1955).

Response to Arguments

6. Applicant's arguments with respect to claims 1-26 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Meroth (DE 3344699 A1); Foster (U.S. Patent No. 297,777); Christesen (U.S. Patent No. 464,854); Wolfe, Jr. et al. (U.S. Patent No. 6,606,967).

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIELLE CLERKLEY whose telephone number is

(571) 270-7611. The examiner can normally be reached on M-TH 8:00 AM - 5:00 PM EST, F 8:00 AM - 4:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on (571) 272-6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kimberly S Smith/
Primary Examiner, Art Unit 3644

/DANIELLE CLERKLEY/
Examiner, Art Unit 3643